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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/817,388	03/26/2001	Peter J. Armbruster	IRI05436	9653
22863	7590	11/02/2004	EXAMINER	
MOTOROLA, INC.			WONG, BLANCHE	
CORPORATE LAW DEPARTMENT - #56-238			ART UNIT	PAPER NUMBER
3102 NORTH 56TH STREET				
PHOENIX, AZ 85018			2667	

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/817,388	ARMBRUSTER ET AL.
	Examiner Blanche Wong	Art Unit 2667

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 26 March 2001.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,2,5,6,9,10,17,19,20 is/are rejected.  
 7) Claim(s) 3-4,7-8,11-16,18 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to because misspelling. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

With regard to drawing, Applicant is requested to replace – CPMMON – with "COMMON" in 105 of Fig. 2.

***Specification***

2. The disclosure is objected to because of the following informalities:
- On p.1, Applicant is requested to provide the correct application serial no. in In. 7
  - On p.7, Applicant is requested to add the phrase “via the YES path” after block 107 in In. 14, the word “negotiated” to read “If the negotiated formats are homogeneous” in In. 33, in order to be more consistent with the rest of the specification.
  - On p.8, Applicant is requested to introduce block/process 140 in In. 25, before beginning with block 141-149, in order to be more consistent with the rest of the specification.
  - On p.9, Applicant is requested to replace – ls – with “is” in In. 5.
  - On p. 12, Applicant is requested to replace – moise – with “noise” in In. 26.

Appropriate correction is required.

***Claim Objections***

3. Claims 4,6,17,20 are objected to because of the following informalities: With regard to claims 4 and 6, Applicant is requested to add the word “terminal” or “user terminal” after – a second – both in In. 5. With regard to claims 17 and 20, Applicant is suggested to add the wording “of the plurality of user terminals” after – the first user terminal – in In. 8-9 and In. 10 respectively.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. **Claim 20** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regard to claim 20, it is unclear whether the first mobile user terminal in In. 5-6, is the mobile user terminal in In. 1; and whether among the plurality of user terminals in In. 3 and 6-7, there are mobile user terminals.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 1,5,9,17,19,20** are rejected under 35 U.S.C. 102(e) as being anticipated by Simard et al. (Pub No. US2002/0085697, filed Dec. 29, 2000).

With regard to claims 1, 17 and 20, Simard discloses a method for a conference bridge 17,28 via IP gateway 36, Fig.3 (an internet conference call) among telephone 40 and packet-based 22,24 terminals, Fig. 3 (a plurality of user terminals). In this method, speech indication signals are sent from the packet-based terminals to the packet-based conference bridge (detecting bearer traffic; any one of these terminals can be a first user). P.4, [0043], In. 5-6. In this method, these speech indication signals correspond to a particular packet-based terminal is speaking or not (detecting silence). P.4, [0043], In. 10-12. Finally, a talker selection algorithm uses the parameters inside the speech indication signals to select a set of the packet-based terminals as talkers. (detecting bearer traffic from the real time protocol of a second user terminal; any one of these terminals can be a second user). P.4, [0043], In. 13-15. It would have been inherent that the signaling is in real time in Simard.

With regard to claims 5 and 19, Simard further discloses the speech indication signals include other parameters that could be utilized by a talker selection algorithm (examining data of the data packets) to select a set of the packet-based terminals as talkers. P.4, [0043], In. 13-15.

With regard to claim 9, Simard further discloses if there is only a single talker selected by the talker selection block 44, the outputting apparatus 34 forwards these selected voice signals to all the packet-based terminals within the voice conference

(replicating the data packets of the first user terminal for transmission to each of the plurality of user terminals). P.5, [0046], ln. 18-25.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Simard et al. (Pub No. US2002/0085697, filed Dec. 29, 2000) in view of Holden (U.S. Pat No. 6,771,639).**

With regard to claim 2, Simard discloses the method in claim 1. However, Simard fails to explicitly show internet conference call via a SIP over an internet, as recited in claim 2.

In analogous art, Holden discloses communicating using IP using SIP, col. 3, ln. 7-col. 4, ln. 33.

A person of ordinary skill in the art would have been motivated to employ Holden in Simard in order to have SIP. The suggestion/motivation to do so would have been to provide for additional information to describe the desired call session. Holden, col. 2, ln. 25-26. At the time the invention was made, therefore, it would have been obvious to one of ordinary skill in the art to which the invention pertains to combine Simard and Holden to obtain the invention as specified in claim 2.

10. **Claims 6,10,20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Simard.

With regard to claim 6, Simard discloses the method claimed in claim 5. However, Simard fails to explicitly show detecting bearer traffic from the real time protocol of a second user terminal of the plurality of user terminals.

In order to examine data of the data packet as claimed in claim 5, it would have been obvious that there must be detection of such data in bearer traffic.

A person of ordinary skill in the art would have been motivated to include a detection step with an examination step. The suggestion/motivation to do so would have been to capture the data for examination. At the time the invention was made, therefore, it would have been obvious to one of ordinary skill in the art to which the invention pertains to combine Simard in view of obviousness to obtain the invention as specified in claim 6.

With regard to claim 10, Simard discloses if there is only a single talker selected by the talker selection block 44, the outputting apparatus 34 forwards these selected voice signals to all the packet-based terminals within the voice conference (replicating the data packets of the first user terminal for transmission to each of the plurality of user terminals). P.5, [0046], ln. 18-25. However, Simard fails to explicitly disclose if silence is not detected, as recited in claim 10.

In order to select a talker, it would have been obvious that the talker is not silent.

A person of ordinary skill in the art would have been motivated to assume that there is no silence. The suggestion/motivation to do so would have been to select a talker. At the time the invention was made, therefore, it would have been obvious to one of ordinary skill in the art to which the invention pertains to combine Simard in view of obviousness to obtain the invention as specified in claim 10.

With regard to claim 20, Simard discloses a method for a conference bridge 17,28 via IP gateway 36, Fig.3 (an internet conference call) among telephone 40 and packet-based 22,24 terminals, Fig. 3 (a plurality of user terminals). In this method, speech indication signals are sent from the packet-based terminals to the packet-based conference bridge (detecting bearer traffic; any one of these terminals can be a first user). P.4, [0043], ln. 5-6. In this method, these speech indication signals correspond to a particular packet-based terminal is speaking or not (detecting silence). P.4, [0043], ln. 10-12. Finally, a talker selection algorithm uses the parameters inside the speech indication signals to select a set of the packet-based terminals as talkers. (detecting bearer traffic from the real time protocol of a second user terminal; any one of these terminals can be a second user). P.4, [0043], ln. 13-15. Additionally, it would have been inherent that the signaling is in real time in this method. However, Simard fails to explicitly show that a mobile user.

At the time of the invention, telephony can refer to not only wireline, but also wireless. It would have been obvious to replace wireline with wireless.

A person of ordinary skill in the art would have been motivated to assume that user terminals can be wireless or mobile. The suggestion/motivation to do so would have been to leverage telephony technologies. At the time the invention was made, therefore, it would have been obvious to one of ordinary skill in the art to which the invention pertains to combine Simard and other telephony technologies to obtain the invention as specified in claim 20.

***Allowable Subject Matter***

11. Claims 3-4,7-8,11-16,18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

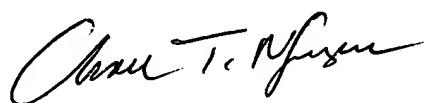
***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blanche Wong whose telephone number is 571-272-3177. The examiner can normally be reached on Monday through Friday, 830am to 530pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi H Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BW  
October 15, 2004



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